

**Before the
Federal Communications Commission**

In the Matter of

Tigard-Tualatin School District – BEN 144915

Appeal of USAC Administrator's Decision on Appeal Regarding E-Rate Funding for FY 2017
Form 471 Application 171010961 FRN 1799111582
CC Docket No. 02-6

We submit this appeal to the Federal Communications Commission on behalf of Tigard-Tualatin School District, Billed Entity No. 144915. The District appeals Administrator's Decision on Appeal of Universal Services Administrative Company (USAC) denying funding of FRN 179911582 stating "Competitive Bidding" violations. The decisions are attached as **Exhibit A**.

FACTUAL BACKGROUND

1. Original Decision

USAC denied funding after an extensive PIA in which documentation regarding the Competitive Bidding process was provided to the reviewer including a letter from the District's legal representative to the disqualified vendor citing the fact that the vendor failed to attend a mandatory pre-proposal conference. On December 13, 2017, a denial review inquiry was posted on EPC stating "Competitive Bidding/cost Effectiveness Issue" and a response promptly submitted. However, less than 24 hours later the FCDL denial posted in the EPC system. The reviewer failed to comprehend that the disqualification had nothing to do with bid signatures and stated in his denial that both bidders were not treated equally. The denial was handed down with no opportunity to explain. We were told by the reviewer to file an appeal immediately but that he could not reverse his decision.

2. Appeal Denial

The USAC appeal letter was filed on December 19, 2017 rebutting that there was only **one** qualified bid to evaluate, all State and local procurement rules were strictly followed as well as documentation supporting that fact. **Exhibit B**. On March 5, 2018, we submitted a Customer Service Case inquiring as to the status of the appeal as the ruling would influence the 2018-19 service choices by the District. The reply was; USAC had 90 days to rule. On March 12, 2018 a District administrator phoned USAC Client Services Bureau also inquiring about the appeal. The RFCDL denying funding was handed down on March 13, 2018 with absolutely no Outreach from the appeal reviewer. Seven days before the 90 day limit. With the rationale "Applicant failed to consider all bids received in its vendor evaluation process". This is again clearly not accurate as there was only one qualified bid proposal

ARGUMENT

Tigard Tualatin School District strictly followed State and local procurement regulations and adhered to E-Rate requirements during the entire process. All qualified prospective bidders received fair and equal treatment. With this decision, USAC over stepped State of Oregon Law.

The district consulted with legal counsel regarding the non-attendance of a vendor (Zayo) at a required RFP pre-meeting (clearly stated as such in RFP documentation). Legal counsel directed the selection committee to reject the bid as disqualified due to this non-compliance in accordance with the State of Oregon procurement laws and regulations. In addition, legal counsel advised that evaluating the bid would put the district in jeopardy of a formal complaint by other vendors if Zayo's bid were qualified when they had NOT attended the required pre-bid meeting. Tigard Tualatin School District considered the only qualified bid proposal and evaluated it for most cost effective, eligible service.

Reviewers making arbitrary decisions and disregarding Tigard Tualatin's attorney and procurement specialists, assumes they are so inept they were unable to execute a *legal* RFP process, on such a high stakes investment, exhibits blatant disregard of the facts. The Appeal's reviewer made little to no effort to understand the crux of the original denial and *why* the District filed the appeal in the first place, because this ruling is wrong and undermines the goals and integrity of the E-rate program.

The district is in desperate need of increased capacity now and has already endured nearly a year delay and as a result this has created an undue financial and staff resource burden unnecessarily. Waiting on a lengthy FCC ruling will force the District into conducting a duplicate RFP process to ensure a service start date of July 1, 2019.

RELIEF REQUEST

We request the FCC reverse the denial decision and grant funding for Form 471 application #171010961 FRN 1799111582 and ensure the bandwidth necessary to educate today's students as well as those in the future.

If you have questions about this appeal or need further details on the issues raised herein, please contact the undersigned.

Respectfully Submitted,



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